

HIGHWAYS

Introduction

1. NALC receives a number of enquiries from local councils in respect of highways and road safety. Local councils have limited powers in respect of highways. However, many councils have found it helpful to know what the powers of highway authorities are, so that they may make suitable representations to the relevant bodies in appropriate cases.

Who are responsible for highways?

2. Highways Authorities have responsibility for highways. In Wales the highway authority is the county or county borough council. In England the highway authority for all roads, except trunk roads, is either:
 - the county council; or
 - the metropolitan district council; or
 - the borough council.

What powers do Highways Authorities have in respect of road safety?

3. Highways Authorities have a number of powers in respect of road safety. This Legal Topic Note details the following powers/ duties:
 - to change speed limits;
 - to construct road humps;
 - to provide pedestrian crossings;
 - to provide adequate lighting;
 - to provide signage;
 - to provide other road calming measures.

The power to change speed limits

4. In England and Wales county or metropolitan district councils are the Traffic Authorities for all roads in the county. Traffic Authorities have the power to make Orders pursuant to section 84 of the Road Traffic Regulation Act 1984 to change speed limits on roads. Orders made pursuant to s.84 in respect of a road may prohibit:
 - the driving of motor vehicles on that road at a speed exceeding that specified in the order; or
 - the driving of motor vehicles on that road at a speed exceeding that specified in the order during periods specified in the order; or
 - the driving of motor vehicles on that road at a speed exceeding the speed for the time being indicated by traffic signs in accordance with the order.

5. Orders made under s.84 must be made in accordance with regulations and must be confirmed by the Secretary of State. Regulations have been made in the form of The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996. The Regulations set out a number of steps which Traffic authorities must follow. These include provisions in respect of:
 - consultation;
 - publication of proposals;
 - receiving objections;
 - public enquiries;
 - the consent of the Secretary of State; and
 - consequential traffic signs.

6. In August 2006 the Department of Transport issued Guidance in respect of speed limits in the form of DfT Circular 01/2006 "Setting Local Speed Limits." The Guidance is comprehensive and gives councils interested in the subject a useful insight into the considerations Traffic Authorities are required to take into account. A fully copy of the Guidance is available on the internet via the following link:

<http://www.dft.gov.uk/pgr/roadsafety/speedmanagement/dftcircular106/dftcircular106newguidanceons4799>

The construction of road humps

7. Highway Authorities may construct and maintain road humps pursuant to s.90A of the Highways Act 1980 in either of the following circumstances:
 - the highway is subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or
 - (whether or not the highway is subject to such a limit) the road humps are specially authorised by the Secretary of State.

8. S.90© of the Act sets out a number of procedural steps that Highways Authorities or the Secretary of State need to take if they propose to build humps. These include:
 - consultation with the police and other prescribed bodies (prescribed by regulations made by the Secretary of State. Parish council have not been specifically referred to however Highways (Road Humps) Regulations 1999/1025 at 3© provides that they should consult bodies appearing to represent persons who use the highway to which the proposal related, or be affected by the road hump.) ;
 - publishing notices in newspapers and at appropriate places on the highway in question;
 - timescales;
 - consideration of objections; and
 - public enquiries.

9. The procedure for constructing humps is amplified by the Highways (Road Humps) Regulations 1999. The Regulations contain the following provisions:
 - the nature, dimensions and location of road humps;
 - the lighting of road humps; and
 - the placing of traffic signs.

The Provision of Pedestrian Crossings

10. A Traffic Authority can provide pedestrian crossings pursuant to s.23 of the Road Traffic Regulation Act 1984. Before establishing, altering, or removing a crossing a Traffic Authority must:
 - consult the chief officer of police about their proposal to do so;
 - give public notice of that proposal; and
 - inform the Secretary of State in writing.

11. (Complex) Regulations have been made pursuant to s.25 of the 1984 Act in the form of the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 (as amended).

Lighting

12. The powers of highway authorities to provide lighting are quite broad. S.97 of the Highways Act 1980 provides that:

“[Highway Authorities] may provide lighting for the purposes of any highway or proposed highway for which they are or will be the highway authority, and may for that purpose—

 - a. contract with any persons for the supply of gas, electricity or other means of lighting; and
 - b. construct and maintain such lamps, posts and other works as they consider necessary.”

13. S.97 also provides that Highway Authorities:
 - may alter or remove any works constructed by them under s.97 or otherwise vested in them;
 - shall pay compensation to any person who sustains damage by reason of the execution of works under s.97; and
 - shall have the same powers as parish councils pursuant to the following legislative provisions:
 - s.45 of the Public Health Act 1961 (attachment of street lamps to buildings);

and

- s.81 of the Public Health Act 1961 (summary recovery of damages for negligence).

Signs

14. Traffic Authorities have the power to place traffic signs on or near roads pursuant to s.65 of the Road Traffic Regulation Act 1984. Additionally, the Secretary of State has the power to direct Traffic Authorities to place or replace signs. The type and dimensions of road signs is strictly prescribed by Regulations made under s.65 of the 1984 Act. The Traffic Signs Regulations and General Directions 2002 and The Traffic Signs (Amendment) Regulations and General Directions 2005 set out the specific details of road signs in detail.

Other Traffic Calming Measures

15. Highway Authorities have the power to construct other traffic calming measures pursuant to s.90G of the Highways Act 1980. The measures are amplified in the Highways (Traffic Calming) Regulations 1999 and include (reg.3):

- chicanes;
- buildouts
- gateways;
- islands;
- overrun areas;
- pinch points; and
- rumble devices.

16. Additionally, the Regulations set out further consultation requirements and state that traffic calming work may include (reg.7) the provision on it or any part of it or on the adjacent highway of:

- lighting;
- paving, grass or other covering;
- pillars, bollards, planters, walls, rails or fences;
- objects or structures spanning the highway; or
- trees, shrubs or other plants.

To make the traffic calming work conspicuous, enhance the effect of the traffic calming work, to promote the safety of persons using the highway, or to preserve or improve the environment through which the highway passes.

By virtue of Highways Act 1980, s.274A (added by Local Government and Rating Act 1997), a parish council or community council may contribute towards any expenses incurred or to be incurred by a highway authority in constructing, removing or maintaining—

- a) traffic calming works, or
- b) other works (including signs or lighting) required in connection with traffic calming works, if, in the opinion of the council, the expenditure is or will be of benefit to their area.

Should the council wish to contribute towards other measures on the highway for which they do not have a specific statutory power under which they can incur such expenditure, the council could consider whether the scheme could be financed through s.137 of the Local Government Act 1972.

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
31	Section 137 of the Local Government Act 1972	Sets out the powers of local councils to incur miscellaneous expenses (should they wish to contribute to any other measures not otherwise provided for in legislation)
77	Public Rights of Way	Sets out the rights and responsibilities for a Footpath, Bridleway, Byway Open to All Traffic (BOAT), or Restricted Byway.
82	Compulsory Purchase Orders	Sets out the procedure for local councils to compulsorily purchase land.